

DEPARTMENT OF LAW AND PUBLIC SAFETY

DIVISION ON CIVIL RIGHTS

Multiple Dwelling Reports

Proposed Readoption: N.J.A.C. 13:10

Authorized By: J. Frank Vespa-Papaleo, Director, Division on Civil Rights

Authority: N.J.S.A. 10:5-8 and 10:5-12

Calender Reference: See Summary below for explanation of exception to calender requirement

Proposal Number: PRN 2004-260.

Submit comments by September 4, 2004 to:

Gary LoCassio, Assistant Director

Division on Civil Rights

P.O. Box 089

Trenton, New Jersey 08625-0089

The agency proposal follows:

Summary

The Division on Civil Rights (Division), in accordance with its rulemaking authority found at N.J.S.A. 10:5-8, proposes the readoption of N.J.A.C. 13:10. Pursuant to the provisions of N.J.S.A. 52:14B-5.1c, the current rules expire on December 4, 2004.

An administrative review has been conducted, and a determination has been made that the rules are necessary, reasonable and proper for the purpose for which they were originally

promulgated. The rules contained in Chapter 10 require owners of multiple apartment dwellings which have 25 units or more to file an annual report with the Division concerning the racial/ethnic composition of the multiple dwelling, whether any of its buildings or developments are barrier-free, as well as other factors affecting the dwelling's composition. The New Jersey Supreme Court in *New Jersey Builders, Owners and Managers Ass'n v. Blair*, 60 N.J. 330 (1972) upheld the rules as a rational approach to enforcing the Law Against Discrimination (LAD).

The multiple dwelling reports required by these rules continue to be an effective tool for the Division to study patterns of housing occupancy and investigate practices of housing discrimination. The reports have been used to trigger investigations that have led to prosecutions of discriminatory housing practices in the multiple dwelling market.

The Division proposes to readopt N.J.A.C. 13:10 in its entirety. A summary of the rules follows:

N.J.A.C. 13:10-1.1 sets forth the meanings of terms used in the rules.

N.J.A.C. 13:10-2.1 sets forth the purpose of the rules.

N.J.A.C. 13:10-2.2 sets forth the persons required to file a report under the rules.

N.J.A.C. 13:10-2.3 sets forth the requirements for the form and content of the report.

N.J.A.C. 13:10-2.4 sets forth the manner by which the report is to be filed.

N.J.A.C. 13:10-2.5 sets forth requirements for maintaining records related to the report.

N.J.A.C. 13:10-2.6 sets forth that failure to comply with the requirements of these rules shall constitute a violation of the Law Against Discrimination.

N.J.A.C. 13:10-2.7 sets forth a schedule of penalties for the failure to file a timely report.

As the Division has provided a 60-day comment period on the notice for this proposal, this notice is excepted from the rulemaking calendar requirement pursuant to N.J.A.C. 1:30-3.3(a)5.

Social Impact

The Division believes that readoption of the rules will have a positive social impact since the Division would retain a useful tool in detecting and investigating patterns of housing discrimination. The continuation of the reporting requirement would greatly enhance the Division's ability to satisfy its statutory mission to eradicate housing discrimination in this State.

Economic Impact

The rules proposed for readoption would not impose any costs on the general public. The rules require owners of an apartment development to maintain records and requires owners of multiple apartment developments with 25 or more units to file reports with the Division. The cost of maintaining these records and filing reports is borne by the property owner. The rules require minimal recordkeeping on the part of landlords. The report form is provided by the Division on Civil Rights and there is no fee charged to the owners of multiple dwelling units for filing the report in a timely manner. Additionally, the report is an uncomplicated, one-page report which can be completed by the owners of multiple dwelling units or their existing staff without the necessity of retaining outside professional services. Further, the report can be completed without excessive use of staff time since the report can be completed following a cursory review of tenant files to determine the racial/ethnic designation of the tenants in the multiple dwelling unit. The rules proposed for readoption provide that failure to comply with requirements of the chapter is a violation of the Law Against Discrimination. Violation of the Law Against Discrimination could expose the landlord to the penalties provided in that law.

Federal Standards Statement

A Federal standards statement is not required because there are no Federal standards or requirements applicable to the rules proposed for readoption.

Jobs Impact

The Division does not believe that the rules proposed for readoption will increase or decrease jobs in the State.

Agriculture Industry Impact

The Division does not believe that the rules proposed for readoption will have any impact on the agriculture industry in the State.

Regulatory Flexibility Analysis

The Regulatory Flexibility Act (the Act), N.J.S.A. 52:14B-16 et seq., requires the Division to give a description of the types, and an estimate of the number, of small businesses to which the proposal will apply. The rules proposed for readoption impose recordkeeping requirements on owners of multiple apartment developments and reporting requirements on owners of multiple apartment developments with at least 25 units, of which there are approximately 3,000. The Division believes that some of these may be considered “small businesses.” The rules proposed for readoption require landlords to maintain records of the racial/ethnic designation of each applicant for apartment rental, racial/ethnic designation of each apartment leaseholder, racial/ethnic designation of each new leaseholder, apartment rental recruiting techniques employed, and such other records as the Attorney General determines are necessary to effectuate the purposes of the rules. The landlord is required to maintain these records for a period of three years. The rules proposed for readoption require the landlord to file an annual report on forms provided by the Division on Civil Rights. The report must contain information on the racial/ethnic information above, apartment turnovers, apartment rental recruiting techniques, rental rates and apartment sizes and whether the multiple apartment development is barrier-free. Since landlords generally maintain records with respect to their leaseholders, maintaining a record of the racial/ethnic designation of

the leaseholder requires little additional recordkeeping. Further, the compilation report is an uncomplicated, one-page report that must be filed only once annually, and may be accomplished by existing staff without the need to retain any professional services. Moreover, since the report can be completed following a cursory review of tenant files to determine the racial/ethnic designation for the tenants, the filing of the report does not require an excessive amount of staff time. The Division has also recently adopted amendments to the rules to provide flexibility in compliance with the rules by allowing owners of the multiple dwellings to file the report electronically over the internet. Because the purpose of the rules is to aid the Division in the enforcement of the Law Against Discrimination, which applies equally to all persons, no special allowances can be made for small businesses.

Smart Growth Impact

The Division does not anticipate that the rules proposed for readoption will have any impact on the achievement of smart growth and implementation of the State Development and Redevelopment Plan, otherwise known as the State Plan.

Full text of the proposed readoption may be found in the New Jersey Administrative Code at N.J.A.C. 13:10.